

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

BERNARD J. MORGAN  
ADELAIDE MORGAN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1941

Decision No. CU

1988

Counsel for claimants:

Donald W. Maring, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by BERNARD J. MORGAN and ADELAIDE MORGAN, for \$990.00 based upon the asserted ownership and loss of interest in two land parcels known as Lots 1 and 8 in Block D in Mountain View Subdivision of San Jose, Isle of Pines, Cuba. Claimant, BERNARD J. MORGAN, has been a national of the United States since birth. Claimant, ADELAIDE MORGAN, is a national of the United States since her naturalization on May 14, 1952.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly

by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean a natural person who is a citizen of the United States. The term does not include aliens.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants contend they have lost an investment in real property in Cuba valued at \$990.00. They have submitted a document entitled "Agreement for Deed," dated August 29, 1957, between Edward S. Pearson and Dorothy V.E. Pearson, described as owners of Mountain View Estates, in San Jose, Isle of Pines, Cuba, as the Sellers, and claimants herein, the Buyers. The document provides that if the Buyers first make payments and perform covenants, the Sellers agree to convey to the Buyers, by Warranty Deed of conveyance, lots 1 and 8 of Block D [Mountain View Estates]. The Buyers agreed to pay \$30.00 cash in hand and \$30.00 each month until \$1,390.00 would be paid in full, and also agreed to pay all taxes to be imposed after 1957.

The document also provides "It is further agreed by the parties hereto that this contract is not to be recorded, and that no assignment or transfer of said contract or the rights thereunder of the Buyers shall be valid and binding as against the Sellers, unless the Sellers shall consent in writing to such recording or assignment."

The record also contains a copy of a letter dated January 4, 1962, to claimant, BERNARD J. MORGAN, from Edward S. Pearson. This letter states in connection with the claimants request for suspension of payments on the land parcels in question as follows:

We have your letter of December 31st regarding the above matter and will hold your payments in abeyance until the situation in Cuba changes for the better.

Taxes are paid on the property through April, 1962, and we will continue to pay the taxes as long as we are permitted to do so.

Under Cuban Law, a sale is consummated and becomes binding on the purchaser and seller if there has been a meeting of the minds on the object and price, even though neither the thing nor the price has been delivered [Lanzas, A Statement of the Laws of Cuba, 78 (1958). Registration is not necessary for the transfer of ownership or rights in rem between the parties concerned, but it is required if the transaction is to be binding on third parties (Lanzas, supra, 277).

On the basis of the entire record and the state of Cuban Law at the time of the transaction, the Commission finds that claimants became the owners, in equal parts, of lots 1 and 8, Block D, of Mountain View Estates in the Isle of Pines, Cuba.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country..

The record shows that claimants have been residents, at least, since September 1961 of Florida. The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record, the Commission finds that the land had a value of \$1,390.00, but that claimants owed the Sellers a total of \$400.00, which latter amount in fact is not claimed. Accordingly, the Commission concludes that each claimant suffered a loss in the amount of \$495.00 within the meaning of Title V of the Act.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (See Claim of Lisle Corporation, Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that BERNARD J. MORGAN suffered a loss as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Ninety-Five Dollars (\$495.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement; and

the Commission certifies that ADELAIDE MORGAN suffered a loss as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Ninety-Five Dollars (\$495.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

JUN 19 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

CU-1941